3 1761 03330 6283

ENVIRONMENTAL LAW
CASEBOOK AND MATERIALS

VOLUME II

D.N. Dewees
Faculty of Law
University of Toronto

Fall, 1996

Prepared with the help of Jeff Brown

For Use of Students in this Course Only

LIBRARY USE ONLY

AKZ-0541
BORA LASKIN LAW LIBRARY
SEP 3 1996
FACULTY OF LAW
UNIVERSITY OF TORONTO

ENVIRONMENTAL LAW

TABLE OF CONTENTS

VOLUME II

CHAPTER EIGHT: ENVIRONMENTAL ASSESSMENT

Emond, "Environmental Planning and Environmental Assessment" 8-1

Section One: Environmental Assessment and Federalism

Crane, "The Environment and the Constitution" 8-4

Friends of the Oldman River v. Canada (1992) 8-9

CELRF Report on Environmental Assessment in Ontario, 1986 8-12

EnvLA, Parliament Passes CEAA 8-16

Lindgren, "Comparison between Ontario EAA and the CEAA" 8-17

Section Two: Application and Scope

Emond, "Scope of Assessment" 8-25

Emond, "EA and the Private Sector - Part I" 8-31

MOE, "Application for Exemption Orders" 8-33

Ross and Elder, "Defining the Scope of EA Reviews" 8-35

Hanebury, "Environmental Review of NAFTA" 8-41

Section Three: The Process

Poch, "Corporate and Municipal Environmental Law" 8-44

Emond, "EA and the Private Sector - Part II" 8-45

Re North Simcoe Waste Management Assoc. (1989) 8-46

MOE, "Interim Guidelines on EA Planning and Approvals" 8-48

Cdn. Wildlife Federation Inc. v. Canada (1989) 8-51

Cdn. Wildlife Federation Inc. v. Canada (1990) 8-52

R. v James Snow (1981) 8-53

Energy Probe v. Ontario (1988) 8-54

Friends of the Island v. Canada (1993) 8-55

EA Review: Eglinton West Rapid Transit 8-58

Re Steetley Quarry Products Inc. (1995) 8-61

Wood, "The Joint Board and the Steetley Decision: the Need for Environmental Assessment Reform 8-65

Section Four: Public Participation

Rempe, "Public Participation in the EA Process" 8-67

Public Participation Diagram 8-72

Re Joint Board under the Consolidated Hearings Act and Ontario Hydro (1985) 8-73

Re Central Ontario Coalition Concerning Hydro Transmission Systems (1984) 8-74

Connelly, "Public Hearing Process under the CEAA" 8-75

Castrilli, "Intervenor Funding" (Ontario) 8-83

Re Regional Municipality of Hamilton-Wentworth (1985) 8-90

Cassidy and Kwan, "Intervenor Funding" (CEAA) 8-95

Pippy Park Conservation Society v. Canada (1994) 8-96

CHAPTER NINE: OFFENCES: CORPORATE LIABILITY

McLeod, "Corporate and Directors' Liability" 9-1

R. v Bata Industries Ltd. (1992) 9-8

"Bata Shoe Case Extends Scope of Director and Officer Liability" 9-18

R. v. Bata Industries Ltd. (1994),(1995) 9-19

Re 724597 Ontario Ltd. (1994),(1995) 9-21

Re Valentine Developments Ltd. (1994) 9-27

Standard Trust Co. v. Lindsay Holdings (1994) 9-29

Saxe, "Why Prosecute Directors?" 9-30

Env. L.A., "Personal Liability for Environmental Harm" 9-38

CHAPTER TEN: DEFENCES TO STATUTORY ACTIONS

Section One: Due Diligence

Saxe, "Due Diligence" 10-1

R. v. Sault Ste. Marie (1978) 10-14

R. v. Canadian Forest Products (1978) 10-18

R. v. Byron Creek Collieries (1979) 10-20

R. v. Western Forest Industries (1978) 10-23

R. v. Spataro Cheese (1981) 10-24

R. v. Panarctic Oils (1982) 10-28

M.O.E. v. Exolon (1981) 10-32

R. v. Texaco (1984) 10-33

R. v. Robinsons' Trucking (1985) 10-37

Switzer, "Due Diligence" 10-41

Hughes, "The Reasonable Care Defences" 10-46

The Wholesale Travel Group Inc. v. R. (1991) 10-50

Rutherford, "CELA Intervenes at the Supreme Court of Canada" 10-55

R. v. Nitrochem Inc. (1993) 10-56

R. v. Laidlaw Waste Systems Ltd. (1993) 10-59

R. v. Anachemia Solvents Ltd. (1994) 10-62

Section Two: Act of God

R. v. North Canadian Enterprises (1974) 10-63

R. v. Pioneer Timber (1979) 10-66

R. v. Jack Cewe (1975) 10-68

CHAPTER ELEVEN: ECONOMICS OF POLLUTION CONTROL

Section One: Economic Efficiency and Pollution Control

Kneese and Schultze, Pollution, Prices and the Public Sector, pp. 18-23. 11-1

Section Two: Economic Policies (Charges, Rights, Penalties)

"Project 88: Harnessing Market Forces to Protect Our Environment", pp. 4, 5, 26-29. 11-6

Portney, "Taking the Measure of Environmental Regulation" 11-11

Hahn and Stavins, "Incentive-Based Environmental Regulation: A New Era from an Old Idea?" 11-14

Mintz, "Economic Reform of Environmental Protection: A Brief Comment on a Recent Debate" 11-26

OECD, "Evaluation of Currently Applied Economic Instruments" 11-35

NERA, "Using Emissions Trading to Reduce Ground-Level Ozone in Canada: A Feasibility Analysis" 11-40

CHAPTER TWELVE: THE ENVIRONMENTAL BILL OF RIGHTS

Slone, "MEPA: Bringing Citizen-Initiated Disputes into the 1980s" 12-1

Rankin, "The EBR: Reflections and Recommendations" 12-5

Saxe, "Ontario EBR, 1993: Annotated" 12-20

Lindgren, "Practical Implications" 12-27

Cochrane, "Environmental Decision Making" 12-38

CHAPTER THIRTEEN: CONTAMINATED LAND

Section One: Canada

Kanter, "Soil Remediation - The Legal Perspective 13-1

MOE, Waste Management Branch, "Guidelines for the Decommissioning and Cleanup of Sites in Ontario" February, 1989 13-3

Hansen, "The Environmental Decommissioning of the Holmes Foundry" 13-9

Canadian National Railway Co. v. Ontario (1991), (1992) (The Northern Wood Preservers Case) 13-11

Onyshko, "Mortgagee Not Liable for Clean-up Cost Under Ont. EPA" 13-21

Dahme, "Northern Wood Preservers: A Case of Contaminated Land" 13-22

Panamericana de Bienes y Servicios (1991) 13-24

Lamford Forest Products (1991) 13-34

Lalonde, "Lenders and their Agents Beware" 13-35

Rempe, "Court Limits Trustees Liability" 13-38

Scott, "Environmental Cleanup Costs Have Priority Over Secured Creditors" 13-39

Saxe, "Retrospective Liability for Environmental Contamination Under Canadian Law" 13-41

West Fraser Timber Co. v. British Columbia (1988) 13-42

Sevidal et al. v. Chopra et al. (1987) 13-48

Re Mac's Convenience Stores Inc. and Minister of the Environment for Ontario (1984) 13-49

R. v. Mac's Convenience Stores Inc. (1985) 13-50

Moskowitz, "Liability of Lessees" and "Risks of Lenders", in Environmental Liability and Real Property Transactions: Law and Practice 13-51

Tingley, Into the Future, pp. 126-132 13-56

Section Two: United States; Superfund

Acton, "Understanding Superfund" 13-61

Garrett, "Superfund Liability and Defenses: A 1992 Primer" 13-70

Elliott, "Superfund: EPA Success, National Debacle?" 13-75

Abraham, "Environmental Liability and the Limits of Insurance" 13-80

CHAPTER FOURTEEN: TOXICS

Section One: The Problem

Jackson and Weller, "The Hazardous Wastes Problem" 14-1

Canadian Environmental Protection Act Report for the Period April, 1990 - March, 1991, pp. 14-17 14-14

Section Two: Transportation and Spills

Douma, "The Common Law" 14-18

Rankin, "Transportation of Dangerous Goods Act" 14-20

"The Transportation of Dangerous Goods Act - The Sequel" 14-26

Douma, "The Provincial and Territorial Acts" 14-27

The Defence Perspective 14-31

Section Three: Waste Management

Jackson and Weller, "Towards a New Waste Management System" 14-33

R. v. Dow Chemical (1986) 14-44

Harwich Township v. Ridge Landfill and M.O.E. (1981) 14-48

Ridge Landfill and B.F.I. v. Jacobs et al. (1981) 14-54

Re M.O.E. and Township of Tilbury West (1984) 14-56

"Ontario Government Amends Waste Management Bill" 14-57